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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,758	12/05/2007	Jeffrey A. Ruschke	7175-202950	9904
69781 7590 08/17/2010 BARNES & THORNBURG, LLP 11 SOUTH MERIDIAN STREET INDIANAPOLIS, IN 46204				
EXAMINER KELLEHER, WILLIAM J				
ART UNIT 3673		PAPER NUMBER		
NOTIFICATION DATE 08/17/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

indocket@btlaw.com

Office Action Summary

Application No.

10/598,758

Applicant(s)

RUSCHKE ET AL.

Examiner

WILLIAM KELLEHER

Art Unit

3673

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-9, 12-17, 22-28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-7, 12-17 and 22-28 is/are allowed.
- 6) ☒ Claim(s) 8, 9 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 8, 9, and 30 rejected under 35 U.S.C. 102(e) as being anticipated by Kramer (U.S. Patent 7,028,352).

Regarding Claim 8, Kramer discloses a siderail for use with a patient support, the siderail being configured to move between a raised position and a lowered position, the siderail comprising: a rail member (1660); a rail extension (1692) coupled to the rail member, the rail extension being configured to move between an extended position relative to the rail member when the siderail is in a raised position and a non-extended position relative to the rail member when the siderail is in a lowered position. Kramer discloses "Rail extension holder 1690 allows rail extension 1692 to assume a plurality of positions relative to rail member 1664 during raising and lower of rail member 1664." Kramer further discloses "Rail member 1664 may assume a plurality of positions relative to deck 1662 such as a raised position, shown in FIGS. 17, 19 and 20, a lowered position, shown in FIGS. 18 and 21, and intermediate positions. When rail member

1664 is in the raised position, rail extension 1692 is able to assume a lowered position hanging from rail member 1664. Rail extension 1692 blocks a gap defined between rail member 1664 and a mattress (not shown). When rail member 1664 is lowered, link members 1694 contact rail extension 1692. After initial contact between rail extension 1692 and link member 1694, further lowering of rail member 1664 causes rail extension 1692 to rotate within extension holder 1690 towards a raised position shown in FIG. 18. Thus, rail extension 1692 does not impede the movement of rail member 1664 between the raised and lowered positions. When rail member 1664 is in a fully lowered position, rail extension 1692 is in a fully raised position relative to rail member 1164. When rail extension 1692 is not in a fully lowered position, the rotational position of rail extension 1692 is dictated by contact with link members 1694 and contact between rail extension 1692 and link members 1694 remains constant." Kramer further discloses a linkage configured to permit raising and lowering of the rail member, wherein the rail extension is positioned above a first end of the linkage when the rail member is in the raised position and the rail extension is below the first end of the linkage when the rail member is in the lowered position. Figure 17 shows 1692 above where 1694 meets 1700 and Figure 18 shows 1692 below where 1694 meets 1700.

Regarding Claim 9, Kramer discloses the siderail of claim 8, wherein the patient support includes an articulated deck, the first end of the linkage being rotatably supported by the deck (at 1700), and the second end of the linkage rotatably supporting the rail member (at 1698).

Regarding Claim 30, for the reasons stated above, Kramer is considered to disclose a siderail for use with a patient support, the siderail comprising: a rail member supported for movement between a raised position and a lowered position; a rail extension operably coupled to the rail member, the rail extension configured to move to a retracted position as the rail member moves to the lower position and configured to move to an extended position as the rail member moves to the upper position wherein the linkage includes a first arm and a second arm positioned in spaced relation to the first arm, each of the first arm and the second arm including a first end rotatably coupled to the patient support and a second arm rotatably coupled to the rail member and wherein the rail extension is positioned intermediate the first and second ends of the first and second arms when the rail member is in the raised position, and the rail extension is positioned below the first and second ends of the first and second arms when the rail member is in the lowered position. Figure 18 shows a portion of 1692 located below the ends of the linkage.

Allowable Subject Matter

2. Claims 4-7, 12-13, 14-17, 22-28 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM KELLEHER whose telephone number is

(571)272-7753. The examiner can normally be reached on Monday - Friday 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673

/W. K./
Examiner, Art Unit 3673